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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,875	01/08/2002	Fung-jou Chen	13,042.3	5370
23556	7590	07/28/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,875

Applicant(s)

CHEN ET AL

Examiner

Jacqueline F. Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/9/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 85-88 and 91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 85-88 and 91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/9/06 have been fully considered but they are not persuasive. In response to applicant's argument that Ahr does not suggest a pad comprising a plurality of wet-resilient wet-laid, textured, through-dried, cellulosic tissue webs as claimed. Applicant argues Ahr discloses webs intended to be used for body-facing liners for absorbent personal care articles and applicant further argues for such uses, a single web is sufficient and there is no reason or suggestion to combine the webs of Ahr into a pad of a plurality of webs as claimed. Ahr discloses a pad as broadly as claimed including a wet resilient wet laid topsheet and backsheet of cellulosic tissue (Abstract, col. 4, lines 20-64 and Christon et al. USPN 5722966 at Abstract and col 5, lines 39-65 and col. 6, lines 63-65, which is incorporated in Ahr by reference. Applicant is arguing the webs of Ahr as being used for disposable single use article with a temporary wet-strength resin as opposed to the present invention which desires a high wet resiliency. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Additionally, the present invention teaches increasing wettability with respect to urine and menses (page 36, lines 30-33) and teaches the present invention being used in the same environment

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as disposable absorbent articles and specifically, as a body-contacting layer for a personal absorbent article (page 3, lines 1-4 and lines 23-29). Therefore, because the prior art meets the structural limitations of the present claimed invention and is used in the same environment the obvious rejection is maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 85-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr USPN 5763044.

As to claims 85-88 Ahr discloses an absorbent web capable of being used as a pad and having a dry feel when wet (Abstract) comprising a cellulosic basesheet (col. 6, lines 40-45) having an upper surface and a lower surface, the upper surface having elevated and depressed regions (Figure 7). The web further comprises hydrophobic matter (col. 5, lines 63-65) preferentially on the elevated regions of the upper surface of the base sheet (Figure 7).

With respect to the dimensions of the web, the specification contains no disclosure of either the critical nature of the claim limitations nor any unexpected results arising therefrom. Ahr teaches hydrophobic fibrils on the topsheet for the same purpose, to improve the surface wetness characteristics of the topsheet by separating the wearer's body from any bodily fluids that may remain on the body side surface of the topsheet, thus providing the body surface with a pleasant tactile feel, therefore to provide the article of Ahr with the claimed surface depth would have been obvious and this modification is within the capabilities of one of ordinary skill in the art. More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation, *In re Aller* et al, 105 USPQ 233.

Ahr does not disclosed the claimed performance test characteristics. However, pages 36 and 40-42 of the present application sets forth materials capable of being

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used in the dual-zoned web. Ahr teaches similar materials for the web as well as provides the method of making a wetlaid web, (col. 4, lines 27-55; col. 5, lines 63-65; col. 6, lines 40-55 and Figure 7). Thus, Ahr obviously includes a topsheet capable of having the claimed performance characteristics. When the structure recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A *prima facie* case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim except a property or function and the examiner can not determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof as in *In re Fitzgerald*, 619 F.2d 67, 70 205 USPQ 594, 596 (CCPA 1980).

5. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahr USPN 5763044 in view of Tanzer et al. USPN 5562645.

As to claim 91, Ahr does not disclose a meltblown material applied to the surface of the first outermost tissue web. Tanzer USPN 5562645 discloses a meltblown material as the topsheet material for the benefit of providing a topsheet to help isolate the wearer's skin from liquids held in absorbent structure (col. 5, lines 20-32). It would

have been obvious to one having ordinary skill in the art to modify the surface material of Ahr with the meltblown fibers taught in Tanzer for the benefits Tanzer discloses.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

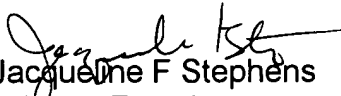
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Primary Examiner
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July 20, 2006